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Notice of Lodging of Consent Decree in United States v. Kentucky Utilities Company Under the Clean Air Act Under 28 CFR 50.7, notice is hereby given that on February 3, 2009, a proposed consent decree ("Consent Decree") between Kentucky Utilities Company ("Kentucky Utilities") and the United States in connection with Civil Action No. 5:07-CV-75-KSF, was lodged with the United States District Court for the Eastern District of Kentucky. The Consent Decree would resolve claims asserted by the United States against Kentucky Utilities pursuant to Sections 113(b) and 167 of the Clean Air Act (the "Act"), 42 U.S.C. 7413(b) and 7477, seeking injunctive relief and the assessment of civil penalties for Kentucky Utilities' violations of: (a) The Prevention of Significant Deterioration ("PSD") provisions in Part C of Subchapter I of the Act, 42 U.S.C. 7470-92; (b) The New Source Performance Standards ("NSPS") provisions of the Act, 42 U.S.C. 7411; (c) Title V of the Act, 42 U.S.C. 7661 et seq.; and (d) The federally enforceable State Implementation Plan ("SIP") developed by the Commonwealth of Kentucky. Kentucky Utilities Company is a Kentucky corporation headquartered in Lexington, Kentucky. Kentucky Utilities owns and operates five coal-fired electrical power generating stations in Kentucky. One of those stations, the E.W. Brown Plant ("Brown Plant") is located on Lake Herrington in Mercer County, Kentucky. The Brown Plant operates three coal-fired boiler units. Only Unit 3 at the Brown Plant ("Brown Unit 3") is the subject of this settlement. The complaint filed by the United States alleges that Kentucky Utilities modified Brown Unit 3 without complying with the PSD requirements of the Act (including the requirements to first obtain a PSD permit authorizing the modification and to install and operate the best available technology to control emissions of sulfur dioxide ("SO₂"), nitrogen oxides ("NO_x"), and/or particulate matter ("PM")), and without complying with the NSPS requirements of the Act. The complaint also alleges that Kentucky Utilities violated Title V of the Act by failing to include the PSD and NSPS requirements triggered by its modifications in its Title V operating permit for the Brown Plant. Finally, the complaint alleges that Kentucky Utilities illegally operated Brown Unit 3 at heat input capacities that were higher than allowed by its operating permit. The proposed Consent Decree would require Kentucky Utilities to reduce SO₂, NO_x and PM emissions at Brown Unit 3 through the installation and operation of state-of-the-art pollution control technologies. In addition, the proposed Consent Decree would require Kentucky Utilities to contribute \$3 million toward environmental mitigation projects, including \$1.8 million toward a carbon sequestration research project overseen by the University of Kentucky and the Kentucky Geological Survey, \$1 million to retrofit diesel school buses with devices to reduce particulate matter emissions, and \$200,000 toward the National Park Service's efforts to protect and restore Mammoth Caves National Park. Finally, the proposed Consent Decree would require Kentucky Utilities to pay a civil penalty of \$1.4 million. The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to

[1. pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to United States v. Kentucky Utilities Company, D.J. Ref. No. 90-5-2-1- 08850. The Consent Decree may be examined at the Office of the United

States Attorney, Eastern District of Kentucky, 260 West Vine Street, Suite 300, Lexington, Kentucky 40507-1612, and at U.S. EPA Region IV, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/Consent-Decrees.html>. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In [[Page 6420]] requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$16.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. W. Benjamin Fisherow, Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division. [FR Doc. E9-2588 Filed 2-6-09; 8:45 am] BILLING